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1746

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MOLTER ET AL.)
Serial No.: 09/965,679) Group Art Unit: 1746
Filed: SEPTEMBER 27, 2001)
For: APPARATUS AND METHOD FOR) Examiner:
MAINTAINING COMPRESSION OF) Monique M. Wills
THE ACTIVE AREA IN AN)
ELECTROCHEMICAL CELL)

Commissioner for Patents
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RESPONSE

This Response is responsive to the Office Action dated December 17, 2004,
wherein the claims were subject to restriction and/or election requirement.

The Examiner has restricted the claims as follows:

- I. Claims 1 - 10, drawn to an electrochemical cell, classified in class 429, subclass 6.
- II. Claims 11 - 33, 44 - 52, 55 - 63, drawn to a resilient pressure pad, classified in class 439, subclass 329.
- III. Claims 34 - 41, drawn to a method of fabricating a resilient pressure pad, classified in class 439, subclass 329.
- IV. Claims 42 - 43, drawn to a method of maintaining compression, classified in class 429, subclass 37.
- V. Claims 53 - 54, 64 drawn to an electrolysis stack, classified in class 205, subclass 637.

Group II, claims 11 - 33, 44 - 52, and 55 - 63 are elected with traverse.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (37 CFR 1.8)Applicant(s): **MOLTER ET AL.**

Docket No.

PES-0040

Application No.

09/965,679

Filing Date

9/27/01

Examiner

Monique M. Wills

Customer No.

23413

Group Art Unit

1746

Invention: **APPARATUS AND METHOD OF MAINTAINING COMPRESSION OF THE ACTIVE AREA IN AN ELECTROCHEMICAL CELL**

I hereby certify that this **Amendment to Amendment and Response**

(Identify type of correspondence)

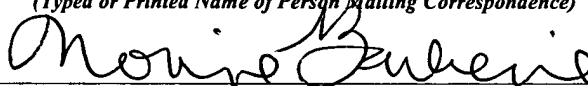
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The restriction of Group V, claims 53, 54, and 64, from Group II is traversed.

MPEP § 806.05(c) states:

Where the relationship between the claims is such that the separately claimed subcombination B_{sp} ***constitutes the essential distinguishing feature of the combination*** AB_{sp} as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.

Emphasis added.

Claims 53, 54, and 64 are the same except for the claim recited for the electrically-conductive compression pad. The Examiner states in support of restriction of Groups II and V that “the combination as claimed does not require the particulars of the subcombination as claimed because the electrochemical cell could employ another device such as pressure claims to maintain compression”. However, the combination of first and second electrolysis cells and a pressure pad are well known in the art, e.g., see Figure 2 (labeled prior art) of the present application. It is the electrically-conductive compression pad that constitutes the essential distinguishing feature of the combination as claimed. Accordingly, Groups II and V are not distinct and a requirement for restriction must not be made. This is the case even though the subcombination may have separate utility as suggested by the Examiner.

Moreover, claims 44 – 64 are the subject of a request for interference. These claims (44 – 64) cover the same patentable invention as claims 1 – 5, 6 – 8, 10 – 18, 20, 21, and 23 – 25 of Titterington U.S. Patent No. 6,464,846 issued on October 15, 2002. Specifically, claim 53 of the present application corresponds to claim 12 of U.S. Patent No. 6,464,846; claim 54 of the present application corresponds to claim 13 of U.S. Patent No. 6,464,846; and claim 64 of the present application corresponds to claim 25 of U.S.

Patent No. 6,464,846. Accordingly, the Patent Office had previously determined these claims were to be prosecuted and issued in a single application/patent, i.e., U.S. Patent No. 6,464,846.

In view of the foregoing, applicants respectfully request that the restriction of Group V, claims 53, 54, and 64, from Group II, claims 11 – 33, 44 – 52, and 55 – 63, be withdrawn, whereby claims 11 – 33 and 44 – 64 would be examined in the present application. Claims 1 – 10 and 34 – 43 would be withdrawn from consideration in the present application, with the applicants reserving the right to pursue any of the non-elected claims in continuation applications.

If there are any additional charges with respect to this Response or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorney.

Respectfully submitted,

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